

Assembly Bill No. 2356

Passed the Assembly August 22, 2008

Chief Clerk of the Assembly

Passed the Senate August 14, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 6103.4 of the Government Code, and to amend Sections 13476, 13477.5, and 13478 of, and to add Sections 13193.9 and 13477.6 to, the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2356, Arambula. Water quality.

(1) Existing law generally exempts the state, a county, city, or special district from paying or depositing any fee for the performance of any official service. Existing law exempts certain fees or charges for official services from the operation of this provision, including certain fees collected under the Porter-Cologne Water Quality Control Act (state act).

This bill would provide that the exemption generally applies to fees collected for the performance of an official service under the state act.

(2) The state act establishes the State Water Pollution Control Revolving Fund program pursuant to which state and federal funds are continuously appropriated from the State Water Pollution Control Revolving Fund to the State Water Resources Control Board for loans and other financial assistance for the construction of publicly owned treatment works by a municipality, the implementation of a management program, the development and implementation of a conservation and management plan, and other related purposes in accordance with the federal Clean Water Act and the state act.

This bill would authorize the board to assess a specified annual charge in connection with any financial assistance made pursuant to the revolving fund program in lieu of interest that otherwise would be charged. The bill would require the proceeds generated from the imposition of the annual charge, along with other moneys, to be deposited in the State Water Pollution Control Revolving Fund Small Community Grant Fund, which the bill would create in the State Treasury. The bill would authorize the board to expend the money in the fund, upon appropriation by the Legislature to the board, for grants for eligible projects under the revolving fund

program that serve small communities, as defined. For the purpose of expending these funds, the board would be required to give priority to projects that serve severely disadvantaged communities.

The bill would require the board, to the extent permitted by law, to take certain actions for the purpose of allocating funds on behalf of a wastewater collection, treatment, or disposal project, if the financial assistance recipient is a small, disadvantaged community, as defined. Those actions would include allocating to the recipient up to 25% of the financial assistance amount, not exceeding \$1,000,000, in advance of actual expenditures, establishing an expedited payment process as specified, and utilizing wire transfers or other appropriate procedures to expedite project payments.

The people of the State of California do enact as follows:

SECTION 1. Section 6103.4 of the Government Code is amended to read:

6103.4. Section 6103 does not apply to any fee or charge for official services required by Section 100860 of the Health and Safety Code, or Part 5 (commencing with Section 4999) of Division 2, or Division 7 (commencing with Section 13000), of the Water Code.

SEC. 2. Section 13193.9 is added to the Water Code, to read:

13193.9. (a) The state board, to the extent permitted by law, shall take all of the following actions for the purpose of allocating funds on behalf of a wastewater collection, treatment, or disposal project, if the recipient of financial assistance is a small, disadvantaged community:

(1) If the state board determines that an advance is needed for the project to proceed in an efficient manner, allocate to the recipient up to 25 percent of the financial assistance amount, not exceeding one million dollars (\$1,000,000), in advance of actual expenditures. The recipient shall repay to the state board any funds advanced pursuant to this section, including any interest earned on the advance funds, if the funds are unused upon expiration of the funding agreement or if the funds are not expended in accordance with the financial assistance agreement.

(2) Establish a payment process pursuant to which the recipient of financial assistance receives funds within 30 days of the date on which the state board receives a project payment request unless

the state board, within that 30-day period, determines that the project payment would not be in accordance with the terms of the program guidelines.

(3) Utilize wire transfers or other appropriate payment procedures to expedite project payments.

(b) The amount of financial assistance received by a recipient, including any funds advanced pursuant to paragraph (1) of subdivision (a), shall not exceed the total amount of the financial assistance that the state board agrees to provide for a project. If financial assistance is advanced to a recipient pursuant to paragraph (1) of subdivision (a), the state board shall reduce subsequent disbursements of financial assistance by the amount advanced.

(c) For the purposes of this section, “small disadvantaged community” means a municipality with a population of 20,000 persons or less, or a reasonably isolated and divisible segment of a larger municipality encompassing 20,000 persons or less, with an annual median household income that is less than 80 percent of the statewide annual median household income.

SEC. 3. Section 13476 of the Water Code is amended to read:

13476. Unless the context otherwise requires, the following definitions govern the construction of this chapter:

(a) “Administration fund” means the State Water Pollution Control Revolving Fund Administration Fund.

(b) “Board” means the State Water Resources Control Board.

(c) “Federal Clean Water Act” or “federal act” means the Clean Water Act (33 U.S.C. Sec. 1251 et seq.) and acts amendatory thereof or supplemental thereto.

(d) “Financial assistance” means assistance authorized under Section 13480. Financial assistance includes loans, refinancing, installment sales agreements, purchase of debt, and loan guarantees for municipal revolving funds, but excludes grants.

(e) “Fund” means the State Water Pollution Control Revolving Fund.

(f) “Grant fund” means the State Water Pollution Control Revolving Fund Small Community Grant Fund.

(g) “Matching funds” means money that equals that percentage of federal contributions required by the federal act to be matched with state funds.

(h) “Municipality” has the same meaning and construction as in the federal act and also includes all state, interstate, and intermunicipal agencies.

(i) “Publicly owned” means owned by a municipality.

SEC. 4. Section 13477.5 of the Water Code is amended to read:

13477.5. (a) The State Water Pollution Control Revolving Fund Administration Fund is hereby created in the State Treasury.

(b) The following moneys shall be deposited in the administration fund:

(1) Moneys transferred to the administration fund to pay the costs incurred by the board in connection with the administration of this chapter.

(2) The amounts collected for financial assistance services pursuant to subdivision (c).

(3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the moneys deposited in the administration fund.

(c) (1) For any financial assistance made pursuant to Section 13480, the board may assess an annual charge for financial assistance services with regard to the financial assistance, not to exceed 1 percent of the financial assistance balance computed according to the true interest cost method.

(2) Any amounts collected under this subdivision shall be deposited in the administration fund.

(3) The financial assistance service rate authorized by this subdivision may be applied at any time during the term of the financial assistance, and once applied, shall remain unchanged for the duration of the financial assistance and shall not increase the financial assistance repayment amount as set forth in the terms and conditions imposed pursuant to this chapter.

(d) Moneys in the administration fund, upon appropriation by the Legislature to the board, may be expended for payment of the reasonable costs of administering the fund.

(e) The board shall set the total amount of revenue collected each year through the charges authorized by subdivision (c) at an amount that is as equal as practicable to the revenue levels set forth in the annual Budget Act for this activity. At least once each fiscal year, the board shall adjust the financial assistance service rate imposed pursuant to subdivision (c) to conform with the revenue levels set forth in the annual Budget Act.

SEC. 5. Section 13477.6 is added to the Water Code, to read:

13477.6. (a) The State Water Pollution Control Revolving Fund Small Community Grant Fund is hereby created in the State Treasury.

(b) The following moneys shall be deposited in the grant fund:

(1) Moneys transferred to the grant fund pursuant to subdivision

(c).

(2) Notwithstanding Section 16475 of the Government Code, any interest earned upon the moneys deposited in the grant fund.

(c) (1) For any financing made pursuant to Section 13480, the board may assess an annual charge to be deposited in the grant fund in lieu of interest that would otherwise be charged.

(2) Any amounts collected under this subdivision shall be deposited in the grant fund, not more than fifty million dollars (\$50,000,000) shall be deposited in the grant fund.

(3) The charge authorized by this subdivision may be applied at any time during the term of the financing, and once applied, shall remain unchanged until 2014, at which point it shall terminate and be replaced by an identical interest rate. The charge shall not increase the financing repayment amount as set forth in the terms and conditions imposed pursuant to this chapter.

(d) (1) Moneys in the grant fund, upon appropriation by the Legislature to the board, may be expended, in accordance with this chapter, for grants for projects described in subdivision (a) of Section 13480 that serve small communities as defined in subdivision (a) of Section 30925 of the Public Resources Code.

(2) For the purpose of approving grants, the board shall give priority to projects that serve severely disadvantaged communities.

SEC. 6. Section 13478 of the Water Code is amended to read:

13478. The board may undertake any of the following:

(a) Enter into agreements with the federal government for federal contributions to the fund.

(b) Accept federal contributions to the fund.

(c) Enter into an agreement with, and accept matching funds from, a municipality. A municipality that seeks to enter into an agreement with the board and provide matching funds pursuant to this subdivision shall provide to the board evidence of the availability of those funds in the form of a written resolution adopted by the governing body of the municipality before it requests a preliminary financial assistance commitment.

(d) Use moneys in the fund for the purposes permitted by the federal act.

(e) Provide for the deposit of matching funds and any other available and necessary moneys into the fund.

(f) Make requests on behalf of the state for deposit into the fund of available federal moneys under the federal act and determine on behalf of the state appropriate maintenance of progress toward compliance with the enforceable deadlines, goals, and requirements of the federal act.

(g) Determine on behalf of the state that publicly owned treatment works that receive financial assistance from the fund will meet the requirements of, and otherwise be treated as required by, the federal act.

(h) Provide for appropriate audit, accounting, and fiscal management services, plans, and reports relative to the fund.

(i) Take additional incidental action as appropriate for the adequate administration and operation of the fund.

(j) Charge municipalities that elect to provide matching funds a fee to cover the actual cost of obtaining the federal funds pursuant to Section 603(d)(7) of the federal act (33 U.S.C. Sec. 1383(d)(7)) and processing the financial assistance application. The fee shall be waived by the board if sufficient funds to cover those costs are available from other sources.

(k) Use money returned to the fund under clause (ii) of subparagraph (D) of paragraph (1) of subdivision (b) of Section 13480, and any other source of matching funds, if not prohibited by statute, as matching funds for the federal administrative allowance under Section 603(d)(7) of the federal act (33 U.S.C. Sec. 1383(d)(7)).

(l) Expend money repaid by financial assistance recipients for financial assistance service under clauses (i) and (ii) of subparagraph (D) of paragraph (1) of subdivision (b) of Section 13480 to pay administrative costs incurred by the board under this chapter.

Approved _____, 2008

Governor